

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-1776V

UNPUBLISHED

SHAWNA HASKINS,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: January 11, 2022

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Guillain-
Barre Syndrome (GBS)

Ronald Craig Homer, Conway, Homer, P.C., Boston, MA, for Petitioner.

Claudia Barnes Gangi, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On November 16, 2018, Shawna Haskins filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that she suffered Guillain-Barre Syndrome (“GBS”) as a result of her influenza (“flu”) vaccination on November 27, 2015. Petition at ¶¶ 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On March 13, 2020, a ruling on entitlement was issued, finding Petitioner entitled to compensation for GBS. On January 10, 2022, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded compensation on the terms set forth therein. Proffer at 1-6. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

¹ Because this unpublished Decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

Pursuant to the terms stated in the attached Proffer, I award the following compensation:

- A. A lump sum payment of \$302,690.02, representing compensation for life care expenses expected to be incurred during the first year after judgment (\$52,690.02) and pain and suffering (\$250,000.00) in the form of a check payable to Petitioner, Shawna Haskins.
- B. A lump sum payment of \$38,366.83, representing compensation for satisfaction of a Molina Healthcare of New Mexico Medicaid lien, in the form of a check payable jointly to Petitioner and:

Equian
OPTUMINSIGHT, INC.
L-182643 GW2W10
5555 Cleveland Ave.
Columbus, OH 43231
Equian Event Number: 28290121

Petitioner agrees to endorse this check to Equian.

- C. A lump sum payment of \$15,072.94, representing compensation for satisfaction of a New Mexico Centennial Care Medicaid lien, in the form of a check payable jointly to Petitioner and:

Optum
L-3994
Columbus, OH 43260-3994
Optum File Number: 45358589

Petitioner agrees to endorse this check to Optum.

- D. A lump sum payment of \$6,634.60, representing compensation for satisfaction of a Blue Cross Blue Shield of New Mexico Medicaid lien, in the form of a check payable jointly to Petitioner and:

BCBS of New Mexico
Health Care Service Corporation
Department CH 14418
Palatine, IL 60055-4418
Event ID: 15946548
Group Number: N72100

Petitioner agrees to endorse this check to Blue Cross Blue Shield of New Mexico.

E. An amount sufficient to purchase the annuity contract described in section II(E) of the attached Proffer.

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

SHAWNA HASKINS,

Petitioner,

v.

**SECRETARY OF HEALTH AND HUMAN
SERVICES,**

Respondent.

No. 18-1776V

**Chief Special Master Corcoran
ECF**

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On November 16, 2018, Shawna Haskins (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that she suffered Guillain-Barré Syndrome (“GBS”) resulting from an influenza (“flu”) vaccination she received on November 27, 2015. Petition at 1. On March 12, 2020, the Secretary of Health and Human Services (“respondent”) filed his Rule 4(c) Report conceding that petitioner suffered the Table injury of GBS following a flu vaccine within the Table time period and is entitled to compensation. ECF No. 47. Accordingly, on March 13, 2020, the Chief Special Master issued a Ruling on Entitlement, finding that petitioner is entitled to vaccine compensation for GBS following the influenza vaccine she received on November 27, 2015. ECF No. 48.

I. Items of Compensation

A. Life Care Items

Respondent engaged life care planner Linda Curtis, RN, MS, CNLCP, CCM, and petitioner engaged life care planner Maureen Clancy, CLCP, to provide an estimation of petitioner’s future vaccine-injury related needs. For the purposes of this proffer, the term

“vaccine related” is as described in the respondent’s Rule 4(c) Report. All items of compensation identified in the life care plan are supported by the evidence, and are illustrated by the chart entitled Appendix A: Items of Compensation for Shawna Haskins, attached hereto as Tab A. Respondent proffers that petitioner should be awarded all items of compensation set forth in the life care plan and illustrated by the chart attached at Tab A. Petitioner agrees.

B. Pain and Suffering

Respondent proffers that petitioner should be awarded \$250,000.00 in actual pain and suffering. *See* 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

C. Molina Healthcare of New Mexico Medicaid Lien

Respondent proffers that Shawna Haskins should be awarded funds to satisfy a Molina Healthcare of New Mexico Medicaid lien in the amount of \$38,366.83, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action Molina Healthcare of New Mexico may have against any individual as a result of any Medicaid payments Molina Healthcare of New Mexico has made to or on behalf of Shawna Haskins from the date of her eligibility for benefits through the date of judgment in this case as a result of her vaccine-related injury suffered on or about November 27, 2015, under Title XIX of the Social Security Act.

D. New Mexico Centennial Care Medicaid Lien

Respondent proffers that Shawna Haskins should be awarded funds to satisfy a New Mexico Centennial Care Medicaid lien in the amount of \$15,072.94, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action New Mexico Centennial Care may have against any individual as a result of any Medicaid payments New Mexico Centennial Care has made to or on behalf of Shawna Haskins from the date of her

eligibility for benefits through the date of judgment in this case as a result of her vaccine-related injury suffered on or about November 27, 2015, under Title XIX of the Social Security Act.

E. Blue Cross Blue Shield of New Mexico Medicaid Lien

Respondent proffers that Shawna Haskins should be awarded funds to satisfy a Blue Cross Blue Shield of New Mexico Medicaid lien in the amount of \$6,634.60, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action Blue Cross Blue Shield of New Mexico may have against any individual as a result of any Medicaid payments Blue Cross Blue Shield of New Mexico has made to or on behalf of Shawna Haskins from the date of her eligibility for benefits through the date of judgment in this case as a result of her vaccine-related injury suffered on or about November 27, 2015, under Title XIX of the Social Security Act.

II. Form of the Award

The parties recommend that the compensation provided to petitioner should be made through a combination of lump sum payments and future annuity payments as described below, and request that the Special Master's decision and the Court's judgment award the following:¹

A. A lump sum payment of \$302,690.02, representing compensation for life care expenses expected to be incurred during the first year after judgment (\$52,690.02) and pain and suffering (\$250,000.00) in the form of a check payable to petitioner, Shawna Haskins.

B. A lump sum payment of \$38,366.83, representing compensation for satisfaction of a Molina Healthcare of New Mexico Medicaid lien, in the form of a check payable jointly to petitioner and:

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering.

Equian
OPTUMINSIGHT, INC.
L-182643 GW2W10
5555 Cleveland Ave.
Columbus, OH 43231
Equian Event Number: 28290121

Petitioner agrees to endorse this check to Equian.

C. A lump sum payment of \$15,072.94, representing compensation for satisfaction of a New Mexico Centennial Care Medicaid lien, in the form of a check payable jointly to petitioner and:

Optum
L-3994
Columbus, OH 43260-3994
Optum File Number: 45358589

Petitioner agrees to endorse this check to Optum.

D. A lump sum payment of \$6,634.60, representing compensation for satisfaction of a Blue Cross Blue Shield of New Mexico Medicaid lien, in the form of a check payable jointly to petitioner and:

BCBS of New Mexico
Health Care Service Corporation
Department CH 14418
Palatine, IL 60055-4418
Event ID: 15946548
Group Number: N72100

Petitioner agrees to endorse this check to Blue Cross Blue Shield of New Mexico.

E. An amount sufficient to purchase an annuity contract,² subject to the conditions described below, that will provide payments for the life care items contained in the life care plan,

² In respondent's discretion, respondent may purchase one or more annuity contracts from one or more life insurance companies.

as illustrated by the chart at Tab A, attached hereto, paid to the life insurance company³ from which the annuity will be purchased.⁴ Compensation for Year Two (beginning on the first anniversary of the date of judgment) and all subsequent years shall be provided through respondent's purchase of an annuity, which annuity shall make payments directly to petitioner, Shawna Haskins, only so long as petitioner is alive at the time a particular payment is due. At the Secretary's sole discretion, the periodic payments may be provided to petitioner in monthly, quarterly, annual, or other installments. The "annual amounts" set forth in the chart at Tab A describe only the total yearly sum to be paid to petitioner and do not require that the payment be made in one annual installment.

1. Growth Rate

Respondent proffers that a four percent (4%) growth rate should be applied to all non-medical life care items, and a five percent (5%) growth rate should be applied to all medical life care items. Thus, the benefits illustrated in the chart at Tab A that are to be paid through annuity payments should grow as follows: four percent (4%) compounded annually from the date of

³ The Life Insurance Company must have a minimum of \$250,000,000 capital and surplus, exclusive of any mandatory security valuation reserve. The Life Insurance Company must have one of the following ratings from two of the following rating organizations:

- a. A.M. Best Company: A++, A+, A+g, A+p, A+r, or A+s;
- b. Moody's Investor Service Claims Paying Rating: Aa3, Aa2, Aa1, or Aaa;
- c. Standard and Poor's Corporation Insurer Claims-Paying Ability Rating: AA-, AA, AA+, or AAA;
- d. Fitch Credit Rating Company, Insurance Company Claims Paying Ability Rating: AA-, AA, AA+, or AAA.

⁴ Petitioner authorizes the disclosure of certain documents filed by the petitioner in this case consistent with the Privacy Act and the routine uses described in the National Vaccine Injury Compensation Program System of Records, No. 09-15-0056.

judgment for non-medical items, and five percent (5%) compounded annually from the date of judgment for medical items. Petitioner agrees.

2. Life-contingent annuity

Petitioner will continue to receive the annuity payments from the Life Insurance Company only so long as she, Shawna Haskins, is alive at the time that a particular payment is due. Written notice shall be provided to the Secretary of Health and Human Services and the Life Insurance Company within twenty (20) days of Shawna Haskins's death.

3. Guardianship

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

III. Summary of Recommended Payments Following Judgment

A.	Lump Sum paid to petitioner, Shawna Haskins:	\$302,690.02
B.	Molina Healthcare of New Mexico Medicaid lien:	\$ 38,366.83
C.	New Mexico Centennial Care Medicaid lien:	\$ 15,072.94
D.	Blue Cross Blue Shield of New Mexico Medicaid lien:	\$ 6,634.60
E.	An amount sufficient to purchase the annuity contract described above in section II.E.	

Respectfully submitted,

BRIAN M. BOYNTON
Acting Assistant Attorney General

C. SALVATORE D'ALESSIO
Acting Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division

TRACI R. PATTON
Assistant Director
Torts Branch, Civil Division

s/Claudia B. Gangi
CLAUDIA B. GANGI
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Dated: January 10, 2022

Appendix A: Items of Compensation for Shawna Haskins

ITEMS OF COMPENSATION	G.R.	*		Lump Sum Compensation Year 1	Compensation Year 2	Compensation Year 3	Compensation Year 4	Compensation Years 5-9	Compensation Year 10	Compensation Years 11-13
				2022	2023	2024	2025	2026-2030	2031	2032-2034
BCBS Premium	5%		M	5,615.16	5,615.16	5,615.16	5,615.16	5,615.16	5,615.16	5,615.16
BCBS Deductible	5%			750.00	750.00	750.00	750.00	750.00	750.00	750.00
Medicare Part A	5%		M							
Medicare Part B Premium	5%		M							
Medicare Part B Deductible	5%									
Medigap	5%		M							
Medicare Part D	5%		M							
PCP	5%	*		60.00	60.00	60.00	60.00	60.00	60.00	60.00
Neurologist	5%	*		50.00	50.00	50.00	50.00	50.00	50.00	50.00
Blood Work	5%	*		32.40	32.40	32.40	32.40	32.40	32.40	32.40
Gabapentin	5%	*								
Morphine Sulfate	5%	*		120.00	120.00	120.00	120.00	120.00	120.00	120.00
Trazadone	5%	*								
Hydromorphone	5%	*		120.00	120.00	120.00	120.00	120.00	120.00	120.00
Carisoprodol	5%	*								
Dulcolax	4%			15.05	15.05	15.05	15.05	15.05	15.05	15.05
B12	4%			50.17	50.17	50.17	50.17	50.17	50.17	50.17
Nutritionist	4%	*		135.00						
PT	4%	*		180.00	180.00	90.00	45.00	45.00	45.00	45.00
OT	4%	*		60.00	60.00	30.00	15.00	15.00	15.00	15.00
Counselor	4%	*		180.00	180.00	180.00	180.00			
Rolling Walker	4%	*					41.99		41.99	
Walker	4%			105.85	17.64	17.64	17.64	17.64	17.64	17.64
Scooter	4%			2,499.00	357.00	357.00	357.00	357.00	357.00	357.00
Scooter Maint	4%			214.20	214.20	214.20	214.20	214.20	214.20	214.20
Scooter Batteries	4%			84.86	84.86	84.86	84.86	84.86	84.86	84.86
Bedside Commode	4%									
WC	4%	*		141.59	23.60	23.60	23.60	23.60	23.60	23.60
Shower Chair	4%			227.00	32.43	32.43	32.43	32.43	32.43	32.43
Transfer Board	4%			42.69	4.27	4.27	4.27	4.27	4.27	4.27
Hand Held Shower	4%			193.15	27.59	27.59	27.59	27.59	27.59	27.59
Raised Toilet Seat	4%			224.82	32.12	32.12	32.12	32.12	32.12	32.12
Bed Rail	4%			176.69	17.67	17.67	17.67	17.67	17.67	17.67

ITEMS OF COMPENSATION	G.R.	*		Lump Sum Compensation Year 1	Compensation Year 2	Compensation Year 3	Compensation Year 4	Compensation Years 5-9	Compensation Year 10	Compensation Years 11-13
				2022	2023	2024	2025	2026-2030	2031	2032-2034
Bed Foot Support	4%			230.89	23.09	23.09	23.09	23.09	23.09	23.09
Grab Bars	4%			479.85	47.99	47.99	47.99	47.99	47.99	47.99
WC Ramp	4%			473.60	17.36	17.36	17.36	17.36	17.36	17.36
Scooter Lift & Carrier	4%			1,289.99	129.00	129.00	129.00	129.00	129.00	129.00
WC Cushion	4%			69.50	23.17	23.17	23.17	23.17	23.17	23.17
Therabands	4%			27.66	27.66	27.66	27.66	27.66	27.66	27.66
Gait Belt	4%			22.87	4.57	4.57	4.57	4.57	4.57	4.57
Emergency Response System	4%			299.40	299.40	299.40	299.40	299.40	299.40	299.40
Wipes	4%			121.49	121.49	121.49	121.49	121.49	121.49	121.49
YMCA	4%			590.00	540.00	540.00	540.00	540.00	540.00	396.00
Home Health	4%		M	35,040.00	35,040.00	35,040.00	35,040.00	35,040.00	35,040.00	35,040.00
Mileage: PCP	4%			45.12	45.12	45.12	45.12	45.12	45.12	45.12
Mileage: Neurologist	4%			11.28	11.28	11.28	11.28	11.28	11.28	11.28
Mileage: YMCA	4%			1,482.24	1,482.24	1,482.24	1,482.24	1,482.24	1,482.24	1,482.24
Portable Ramp	4%			1,228.50						
Pain and Suffering				250,000.00						
Molina Healthcare Lien				38,366.83						
NM Centennial Lien				15,072.94						
BCBS of NM Lien				6,634.60						
Annual Totals				362,764.39	45,856.53	45,736.53	45,718.52	45,496.53	45,538.52	45,352.53

Note: Compensation Year 1 consists of the 12 month period following the date of judgment.

Compensation Year 2 consists of the 12 month period commencing on the first anniversary of the date of judgment.

As soon as practicable after entry of judgment, respondent shall make the following payment to petitioner for Yr 1 life care expenses (\$52,690.02) and pain and suffering (\$250,000.00): \$302,690.02.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and Equian, as reimbursement of the Molina Healthcare of New Mexico Medicaid lien: \$38,366.83.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and Optum, as reimbursement of the New Mexico Centennial Care Medicaid lien: \$15,072.94.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and BCBS of New Mexico, as reimbursement of the BCBS of New Mexico Medicaid lien: \$6,634.60.

Annual amounts payable through an annuity for future Compensation Years follow the anniversary of the date of judgment.

Annual amounts shall increase at the rates indicated above in column G.R., compounded annually from the date of judgment.

Items denoted with an asterisk (*) covered by health insurance and/or Medicare.

Items denoted with an "M" payable in twelve monthly installments totaling the annual amount indicated.

Appendix A: Items of Compensation for Shawna Haskins

ITEMS OF COMPENSATION	G.R.	*		Compensation Year 14	Compensation Year 15	Compensation Year 16	Compensation Years 17-22	Compensation Year 23	Compensation Years 24-Life
				2035	2036	2037	2038-2043	2044	2045-Life
BCBS Premium	5%		M	5,615.16					
BCBS Deductible	5%			750.00					
Medicare Part A	5%		M		5,988.00	5,988.00	5,988.00	5,988.00	5,988.00
Medicare Part B Premium	5%		M		2,041.20	2,041.20	2,041.20	2,041.20	2,041.20
Medicare Part B Deductible	5%				233.00	233.00	233.00	233.00	233.00
Medigap	5%		M		1,464.00	1,464.00	1,464.00	1,464.00	1,464.00
Medicare Part D	5%		M		2,409.72	2,409.72	2,409.72	2,409.72	2,409.72
PCP	5%	*		60.00					
Neurologist	5%	*		50.00					
Blood Work	5%	*		32.40					
Gabapentin	5%	*							
Morphine Sulfate	5%	*		120.00					
Trazadone	5%	*							
Hydromorphone	5%	*		120.00					
Carisoprodol	5%	*							
Dulcolax	4%			15.05	15.05	15.05	15.05	15.05	15.05
B12	4%			50.17	50.17	50.17	50.17	50.17	50.17
Nutritionist	4%	*							
PT	4%	*		45.00				800.00	400.00
OT	4%	*		15.00				400.00	200.00
Counselor	4%	*							
Rolling Walker	4%	*				139.95	23.33	23.33	23.33
Walker	4%			17.64	17.64	17.64	17.64	17.64	17.64
Scooter	4%			357.00	357.00	357.00	357.00	357.00	357.00
Scooter Maint	4%			214.20	214.20	214.20	214.20	214.20	214.20
Scooter Batteries	4%			84.86	84.86	84.86	84.86	84.86	84.86
Bedside Commode	4%				167.00	23.86	23.86	23.86	23.86
WC	4%	*							
Shower Chair	4%			32.43	32.43	32.43	32.43	32.43	32.43
Transfer Board	4%			4.27	4.27	4.27	4.27	4.27	4.27
Hand Held Shower	4%			27.59	27.59	27.59	27.59	27.59	27.59
Raised Toilet Seat	4%			32.12	32.12	32.12	32.12	32.12	32.12
Bed Rail	4%			17.67	17.67	17.67	17.67	17.67	17.67

Appendix A: Items of Compensation for Shawna Haskins

ITEMS OF COMPENSATION	G.R.	*		Compensation Year 14	Compensation Year 15	Compensation Year 16	Compensation Years 17-22	Compensation Year 23	Compensation Years 24-Life
				2035	2036	2037	2038-2043	2044	2045-Life
Bed Foot Support	4%			23.09	23.09	23.09	23.09	23.09	23.09
Grab Bars	4%			47.99	47.99	47.99	47.99	47.99	47.99
WC Ramp	4%			17.36	17.36	17.36	17.36	17.36	17.36
Scooter Lift & Carrier	4%			129.00	129.00	129.00	129.00	129.00	129.00
WC Cushion	4%			23.17	23.17	23.17	23.17	23.17	23.17
Therabands	4%			27.66	27.66	27.66	27.66	27.66	27.66
Gait Belt	4%			4.57	4.57	4.57	4.57	4.57	4.57
Emergency Response System	4%			299.40	299.40	299.40	299.40	299.40	299.40
Wipes	4%			121.49	121.49	121.49	121.49	121.49	121.49
YMCA	4%			396.00	396.00	396.00	396.00		
Home Health	4%		M	35,040.00	35,040.00	35,040.00	35,040.00	35,040.00	35,040.00
Mileage: PCP	4%			45.12	45.12	45.12	45.12	45.12	45.12
Mileage: Neurologist	4%			11.28	11.28	11.28	11.28	11.28	11.28
Mileage: YMCA	4%			1,482.24	1,482.24	1,482.24	1,482.24		
Portable Ramp	4%								
Pain and Suffering									
Molina Healthcare Lien									
NM Centennial Lien									
BCBS of NM Lien									
Annual Totals				45,328.93	50,824.29	50,821.10	50,704.48	50,026.24	49,426.24

Note: Compensation Year 1 consists of the 12 month period following the date of judgment.

Compensation Year 2 consists of the 12 month period commencing on the first anniversary of the date of judgment.

As soon as practicable after entry of judgment, respondent shall make the following payment to petitioner for Yr 1 life care expenses (\$52,690.02) and pain and suffering (\$250,000.00): \$302,690.02.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and Equian, as reimbursement of the Molina Healthcare of New Mexico Medicaid lien: \$38,366.83.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and Optum, as reimbursement of the New Mexico Centennial Care Medicaid lien: \$15,072.94.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and BCBS of New Mexico, as reimbursement of the BCBS of New Mexico Medicaid lien: \$6,634.60.

Annual amounts payable through an annuity for future Compensation Years follow the anniversary of the date of judgment.

Annual amounts shall increase at the rates indicated above in column G.R., compounded annually from the date of judgment.

Items denoted with an asterisk (*) covered by health insurance and/or Medicare.

Items denoted with an "M" payable in twelve monthly installments totaling the annual amount indicated.